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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,059	06/25/2003	Gregory William Dake	RPS920030045US1	3788
45802	7590	01/20/2006	EXAMINER	
LALLY & LALLY, L.L.P.			PATEL, ANAND B	
P. O. BOX 684749			ART UNIT	
AUSTIN, TX 78768-4749			PAPER NUMBER	

2116

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/606,059	Applicant(s) DAKE ET AL.	
	Examiner Anand Patel	Art Unit 2116	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-13 and 15-19 is/are rejected.
- 7) ☒ Claim(s) 6, 14, 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2116

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4-5, 18-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- As per claims 4, 18, Examiner is unclear as to what the phrase “each switch module configured to interconnect the switch modules” means.
- As per claims 5, 19, they are rejected by virtue of their dependencies.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 7-13, 15-19 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application Publication No 2004/0117536 to Franke et al (Franke).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C.

102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the

Art Unit: 2116

inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

- As per claims 1, 15, Franke discloses a power management method for use in a multi-server data processing network (figure 5), comprising:
 - Responsive to detecting a power transition, determining whether the power transition is indicative of a cold start (inherent that the transition is detected if the type of transition is determined; paragraph 41); and
 - Responsive to determining the power transition is indicative of a cold start (paragraph 41), retrieving power state information (204) and, based on the power state information, restoring power to at least some of the modules of the network (210), wherein the power state information represents the power state of the network prior to the power transition (inherent given that the power state information is indicative of an off state given the determination that the transition is indicative of a cold start where all devices are off) and further wherein the power state information prevents the powering on of network modules having incompatible communication protocols (220, 222).
- As per claims 2, 16, Franke discloses further comprising, responsive to determining that the power transition is not indicative of a cold start (paragraph 42), querying the network modules for their power state and communication protocol types and storing the power state and communication protocol information in non-volatile storage (402; paragraphs 44-45).
- As per claims 3, 17, Franke discloses wherein querying a network module includes retrieving module identification information from a non-volatile storage device on the module (paragraphs 44-45; inherent that the information is stored on non-volatile memory given that the blade is not powered initially but produces logical information when it is queried).
- As per claim 7, Franke discloses a data processing network, comprising:
 - A plurality of server modules (figure 5);

Art Unit: 2116

- At least one switch module connecting the servers (SW A); and
- A management module (management module) to consult stored power state information following a power transition and to restore power to at least some of the server and switch modules based on the power state information to prevent the management module from restoring power to any server and switch modules having incompatible communication protocols (paragraphs 32, 58, 62).
- As per claim 8, Franke discloses wherein the plurality of server modules comprise a plurality of symmetric multiprocessor (SMP) server modules housed within a single chassis (figures 1, 5; PB1-PB14), and further wherein the at least one switch module is housed within the chassis (figures 1, 5), and still further wherein the servers modules and at least one switch module share selected resources of the network including system power (paragraph 57).
- As per claim 9, Franke discloses wherein the server modules and at least one switch module are compliant with a communication protocol selected from Ethernet, fibre channel, and serial (paragraph 59).
- As per claim 10, Franke discloses wherein the management module is configured to:
 - Determine whether the power transition is indicative of a cold start (inherent that the transition is detected if the type of transition is determined; paragraph 41); and
 - Responsive to determining the power transition is indicative of a cold start (paragraph 41), restore power to at least some of the modules based on the power state information (224), wherein the power state information represents the power state of the network prior to the power transition (inherent given that the power state information is indicative of an off state given the determination that the transition is indicative of a cold start where all devices are off) and further wherein the power state information prevents the management module from powering on of network modules having incompatible communication protocols (220, 222).

Art Unit: 2116

- As per claim 11, Franke discloses wherein the management module is further configured to query the modules for their power state and communication protocol types responsive to determining that the power transition is not indicative of a cold start (paragraph 42), and to store the power state and communication protocol information in non-volatile storage (402; paragraphs 44-45).
- As per claim 12, Franke discloses wherein each module includes module identification information stored in a non-volatile storage device on the module, wherein the identification information is indicative of the communication protocol type (paragraphs 44-45; inherent that the information is stored on non-volatile memory given that the blade is not powered initially but produces logical information when it is queried).
- As per claim 13, Franke discloses wherein each network module and each switch module is characterized by a communication protocol selected from Ethernet, fibre channel, optical and serial (paragraph 59).

Allowable Subject Matter

5. Claims 6, 14, 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Franke does not disclose restoring power to any module indicated by the power state information as being on during a previous tenure without regard to the communication protocol being used.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anand Patel whose telephone number is (571) 272-7211. The examiner can normally be reached on Mon-Fri 8AM-4PM.

Art Unit: 2116

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (571) 272-3670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ABP


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